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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,352	01/31/2001	Kenneth Carroll	CRL/002	4024

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/773,352

Applicant(s)

CARROLL, KENNETH

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/6/03 has been entered.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-20, 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 line 3 “shaft a tensile strength” is indefinite. Should it be “shaft having a tensile strength”?

Line 13 “sandwiching the building” is indefinite. Applicant in the remarks specifically states that the building is not part of the structure. The claim thus needs to reflect the subcombination intended. Should it be “adapted to sandwich the building”?

Claim 24 line 6 “the first end” is indefinite. Should it be “the second end” instead?

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3. Claims 12-18, 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the position" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 line 2 "one of the away" is indefinite. Should it be "one of the pivotal members away"?

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7-9, 12-15, 18-19, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomkinson (1598407).

Tomkinson (figures 1, 3) shows an anchor having a center shaft (66) having a tensile strength, the shaft having an attachment end (the part with the ring), a piercing end (the end of part 20), a collar (61) axially repositionable in both directions along an axis of the shaft (66), a first member (46, left) pivotally coupled to the center shaft, a second member (46, right) pivotally coupled to the center shaft, the first and second members being rotatable between a first position (figure 1) proximate the shaft and a second position away from the shaft (figure 3), and are fixed in angular orientation about a centerline of the center shaft, the piercing end terminating in a knife edge or point, the piercing end being removable (figure 4 shows removable

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attachments 36, 26, 35, 22), the attachment end comprising a ring defining a hole that provides an attachment point, the collar further having a body ( upper part of 61), a flange ( the lower wider part of 61) extending outward from the body, the collar comprising a means/locking mechanism (68, 67) for fixing the collar along the shaft, the means/locking mechanism (68, 67) coupled to the collar and having an end adapted to urge against the shaft, the means being a threaded member, the locking mechanism having a first end movable relative to the collar and bias able against the shaft to fix the position of the collar relative to the shaft, the collar having a hole therethrough and having the locking mechanism (68, 67) disposed therein, the attachment end coupled to the fall restraint (guy wire).

Tomkinson does not show the center shaft having a tensile strength of at least 5000 pounds.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Tomkinson to show the center shaft having a tensile strength of at least 5000 pounds because it ensures the shaft having sufficient anchoring/pulling power.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomkinson in view of Smith (1193725).

Tomkinson as modified shows all the claimed limitations except for the ring having a boss coupled to an exterior portion of the ring and removably threaded over the shaft portion.

Smith shows a ring having a boss (25) coupled to an exterior portion of the ring and removably threaded over the shaft portion to enable removable of the ring from the shaft.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Tomkinson's modified structure to show the ring having a boss coupled to

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an exterior portion of the ring and removably threaded over the shaft portion because it would enable removal of the ring from the shaft as taught by Smith.

4. Claims 1, 10-11, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Longley et al (2911859).

Longley et al shows an anchor having a center shaft (88, 85) having a tensile strength, the shaft having an attachment end (86, inherently capable of being adapted to couple to a fall restraint), a piercing end (94) adapted to pierce through the building structure (inherently capable of being adapted to do so), a collar (95) axially repositionable in both directions along an axis of the shaft, a first member (92) pivotally coupled to the center shaft, a second member (91) pivotally coupled to the center shaft, the first and second members being rotatable between a first position proximate the shaft and a second position away from the shaft and are fixed in angular orientation about a centerline of the center shaft (the members being fixed at an angle to the shaft at the second position), the first and second member each including an end that meet to form a point that extends beyond the piercing end of the shaft when the first member and second member being in the first position, a spring (93) biases at least one of the members away from the shaft, a shaft member (90) disposed through the center shaft, the first member and the second member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Longley et al to show the center shaft having a tensile strength of at least 5000 pounds because it ensures the shaft having sufficient strength to withstand against the turning torque.

***Allowable Subject Matter***

5. Claims 16-17, 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. Claim 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

7. The following is a statement of reasons for the indication of allowable subject matter:

Per claims 16-17, 20, prior art does not provide sufficient motivations to modify Tomkinson to show the first and second members including an end that meet to form a point that extends beyond the piercing end of the shaft when the first and second member being in the first position in combination with other claimed limitations; prior art also does not provide sufficient motivations to modify Tomkinson to show a spring that biases at least one of the pivoting members away from the shaft in combination with other claimed limitations.

Per claim 24, prior art does not show an anchor having a center shaft of at least 5000 pounds tensile strength, the shaft having a first end having a point or knife edge, a second end having a ring disposed thereof, the ring defining a hole spaced from the shaft, a first and second members pivotally coupled to the center shaft, a pivot member disposed through the shaft and coupling the first and second members, a collar slidably repositionable along the center shaft, the collar having a body and a flange extending radially outward from an end of the body facing the first end of the shaft, a locking mechanism coupled to the body of the collar and having a first end movable relative to the collar and bias able against the shaft.

***Response to Arguments***

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8. Applicant's arguments with respect to claims 1-3,5-24 have been considered but are moot in view of the new ground(s) of rejection.

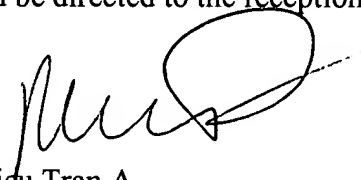
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different anchoring members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Phi Dieu Tran A  
March 22, 2003